



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

██████████
Docket No. 5165-22
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your naval record and your application, the Board for Correction of Naval Records (Board) found the evidence submitted insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

A three-member panel of the Board, sitting in executive session, considered your application on 9 August 2022. The names and votes of the members of the panel will be furnished upon request. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, relevant portions of your naval record and applicable statutes, regulations and policies, as well as the 29 June 2022 decision by the Marine Corps Performance Evaluation Review Board (PERB), and the 18 April 2022 Advisory Opinion (AO) provided to the PERB by the Manpower Management Division Records and Performance Branch (MMRP-30). The PERB decision and the AO was mailed to you on 29 June 2022, and you were given 30 days in which to submit a response. Although you were afforded an opportunity to submit a rebuttal, you chose not to do so.

The Board determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

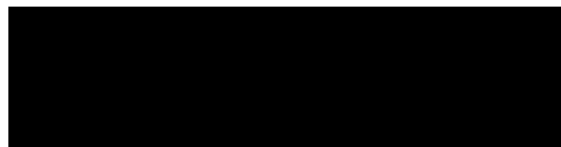
The Board carefully considered your request to remove your 4 August 2019 to 6 August 2019 Fitness Report and associated Page 11 (6105) counseling entry of 6 August 2019. The Board considered your contention that the command certified weight entered into the Marine Corps Training Information Management System (MCTIMS) on 27 June 2019, and upon return to your command, placed you within standards. The Board also noted your contention that because you were not assigned to the Body Composition Program (BCP) you should not have received a 6105 counseling entry.

The Board, however, substantially concurred with the AO and the PERB Decision that the fitness report is valid as written and filed, in accordance with the applicable Performance Evaluation System (PES) Manual guidance. Furthermore, the Board concluded the 6105 counseling was appropriately issued. In this regard, the Board noted that you were issued an adverse fitness report and associated 6105 counseling for documented failure to maintain acceptable height/weight/body fat standards upon initial screening at Marine Security Guard (MSG) School. With regard to your contention that you were found to be within acceptable standards prior to attendance at MSG school and subsequent to disenrollment, the Board determined this evidence was insufficient to overcome the presumption of regularity applied to the weigh-in process at MSG school. The Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. Further, the Board noted that there is no PES Manual requirement that a Marine Reported On (MRO) be subsequently and formally assigned to BCP to render a fitness report valid. In addition, although a 6105 counseling is a requirement upon initial assignment to BCP, it does not prohibit a commanding officer from issuing a 6105 counseling when a Marine fails to maintain the prescribed height/weight/body fat standards. Since your tenure at MSG school was limited to 2 days, the Board determined it was reasonable for the MSG school to simply issue a counseling documenting your weight control failure without discussion of any assignment to BCP. The Board thus concluded that insufficient evidence of error or injustice exists to warrant removal of the contested report or 6105 counseling entry from your record. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

You are entitled to have the Board reconsider its decision upon submission of new matters, which will require you to complete and submit a new DD Form 149. New matters are those not previously presented to or considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

8/25/2022

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DEPUTY DIRECTOR

Signed by: 